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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/485,820 02/16/00 UEDA

N Q057694

EXAMINER

HM12/0425

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WASHINGTON DC 20037-3213

LEVY, N

ART UNIT

PAPER NUMBER

1616

DATE MAILED:

04/25/01

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 11/30/01

☒ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire \_\_\_\_\_ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 3-5, 7, 8, 11 & 12 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 3-5, 7, 8, 11 & 12 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

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Receipt is acknowledged of amendment: 1/30/01.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 7, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 5017308.

The rejection of record is maintained.

Water soluble film envelope a solid formulation of a solid acid, a carbonate and an active compound, as powders, granules and a trivalent alcohol, geropon.

Claims 1, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 5-85901.

Clay and carbon particles, (powders) coated with water soluble polymers, PVA, are pesticidal formulations of a solid pesticide and water soluble polyalcohol fatty acid ester.

Claims 1, 7, 8, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hokko-JP 5078204.

The rejection of record is maintained solid pesticide enveloped in PVA, with polyalcohol fatty acid esters meets the instant claimed envelope formulation.

Claims 1, 3-5, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Murakami et al 5929053.

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Solid pesticidal formulations including solid pesticides (col. 1, line 40-line 30, col. 2) and ethylene glycol or glycerin (col. 3, lines 38-44) at up to 20% (col. 5, line 10-14) as powders of 30-200 micros (col. 4, top) or granules (line 58-62, col. 4). The wall includes PVA (Example 1).

Claims 1, 3, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Levy 6001382.

A water soluble PVA pouch contains (col. 6, lines 28-36) powdered or granular pesticides (col. 8, lines 65-68) inclusive of solids (col. 9, line 13-24, 38-54) coated with (col. 10, line 48-56) hydroxy fatty acid esters, PVA(col. 14, lines 51-55) glycols. See examples 1, 2, 10 and col. 15, lines 56-58 col. 18, lines 7-12; col. 21, line 44-47.

Claims 1, 3-5, 7, 8, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami et al 5929053 and Levy 6001382.

Murakami and Levy (above) provide the instant granules or powders of pesticides, in the case of Murakami, enveloped as microcapsules, while in Levy within a bag. However, loose microcapsules need to be contained, while containers, water soluble, can be used to hold Levy's granules (col. 6, line 15-20), inclusive of PVA. Takigawa shows how to produce the PVA water soluble container, capable of withstanding cold, but dissolvable at summer temperatures (col. 2, line 45-72), using glycerin or polyethylene glycol (Example 3) at the instant concentration.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made, desiring to utilize insecticide compositions to use one of Murakami or Levy, enveloped

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in a container to permit release when the insects are active, as taught by Levy. Takigawa provides such a container.

There is no non-obvious and/or unexpected results obtained since the prior art is well aware of the use of insecticides, binder, plasticizers and the use of additives for the functionality for which they are known to be used is not a basis for patentability. The selection adjuvants is a result effective parameter determinable by artisan as desired for purposes of treating specific pests, providing ingredient compatibility and controlled release.

All the critical elements of the instant invention are disclosed.

Applicant's arguments filed 1/30/01 have been fully considered but they are not persuasive. Applicants arguments are to the effect the prior art no longer reads on the amended claims, now requiring powder; granules; rejections have been reformulated, accordingly and art now providing these forms with ethylene glycol or glycerine applied.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

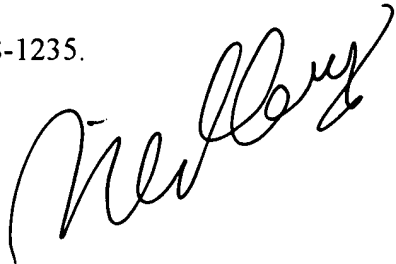
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy:mv

April 11, 2001



NEIL S. LEVY  
PRIMARY EXAMINER